

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ROBERT ALLEN : CIVIL ACTION
v. :
JAMES WYDNER, et al. : NO. 06-4299

O R D E R

AND NOW, this 6th day of February, 2007, after consideration of the motion for relief from judgment or order pursuant to Federal Rule of Civil Procedure 60(b)(6) filed by petitioner of September 21, 2006, the response thereto, petitioner's reply and after review of the Report and Recommendation of United States Magistrate Judge Arnold C. Rapoport dated January 17, 2007 and petitioner's objections thereto:

1. It is clear that the motion is untimely; accordingly the Report and Recommendation is APPROVED and ADOPTED on that ground. I do not reach the merits of the motion.
2. The motion for relief from judgment or order pursuant to Federal Rule of Civil Procedure 60(b)(6) is DENIED.
3. There is no probable cause to issue a certificate of appealability.

s/Thomas N. O'Neill, Jr.
THOMAS N. O'NEILL, JR., J.